



Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

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| Agency name | Department of Human Resource Management |
| Virginia Administrative Code (VAC) citation | VAC 55 -30 |
| Regulation title | Commonwealth of Virginia Long Term Care Program |
| Action title | This chapter will establish regulations used by the Department of Human Resource Management (DHRM) in the administration of the long-term care plan for state employees, retirees and terminated vested participants of the Virginia Retirement System. |
| Document preparation date | |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Preamble

The APA (Code of Virginia § 2.2-4011) states that an “emergency situation” is: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date.

- 1) Please explain why this is an “emergency situation” as described above.
- 2) Summarize the key provisions of the new regulation or substantive changes to an existing regulation.

Enter statement here

§ [2.2-1208](#) of the Code of Virginia directs the DHRM to establish these emergency regulations

These regulations explain which groups of employees, former employees and their dependents are eligible for the long-term care program sponsored by the Department of Human Resource Management. Additionally they clarify the different insurance classifications, and the processes that the eligible participants within each classification must go through in order to secure coverage.

The regulations spell out that satisfactory evidence of good health is required prior to enrollment in the plan except for newly eligible active employees or during special enrollments. Regardless as to date of hire or any special enrollment in order for employees to be accepted into the program they must be actively at work.

§2.2-1208 states that any person eligible to participate in the long-term care insurance program established pursuant to § 2.2-1207 will not be eligible for the plan described in §2.2-1208. § 2.2-1207 authorizes coverage for employees and retirees of local government and school boards should the governing body elect to participate in the plan. These regulations make clear that employees or retirees of these governing bodies are not eligible to enroll in the program pursuant to §2.2-1208 regardless as to whether or not their employer participates in the program. Participation in the program by these individuals is contingent upon participation by their employer. It is the Department of Human Resource Management’s intent that provisions concerning the administration of the long-term care plan for employees and retirees of local government and school boards will be included in the permanent regulations when they are promulgated.

In effect §2.2-1208 creates a new group of eligible participants. Whereas § 51.1-513.1 authorized DHRM to establish a plan for state employees, §2.2-1208 authorizes coverage for state employees and creates a new class of eligible participants. This new class of eligible participants are individuals who are neither active employees nor retirees of state or local government. However, they must have five or more years of creditable service with the Virginia Retirement System.

Legal basis

Other than the emergency authority described above, please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and 2) the promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Enter statement here

Code of Virginia

§ 2.2-1208 Long-term care insurance.

Substance

Please detail any changes that are proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Set forth the specific reasons the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of Virginians.

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For changes to existing regulations, use this chart:

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
|------------------------|--|---------------------|-------------------------------|
| | | | |

Enter any other statement here

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been considered to meet the essential purpose of the action.

Enter statement here N/A. These regulations are required by § 2.2-1208.

Family impact

Please assess the impact of the emergency regulatory action on the institution of the family and family stability.

Enter statement here These regulations will not have any negative effects on the institution of the family or family stability. They will not erode the marital commitment and will not discourage economic self-sufficiency, self-pride or the assumption of family responsibility.